IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 2290 of 2007(V)

PETITIONER:

S. NJANASUNDARAN,
KUZHIKKALA HOUSE, NEDUMKANDOM P.O.,
IDUKKI DISTRICT, PIN-685553.

BY ADV. SRI.BIJU MARTIN
SRI.K.A.ABRAHAM

RESPONDENTS:
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1. THE DISTRICT COLLECTOR, IDUKKI.

2. THE TAHSILDAR (R.R),
TALUK OFFICE, UDUMBANCHOLA.

3. THE VILLAGE OFFICE,
KALKUNTHAL VILLAGE, UDUMBANCHOLA TALUK.

4. THE COMMERCIAL TAX OFFICER, NEDUMKANDAM.

BY GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C) NO. 2290 OF 2007

Dated this the 19th day of January, 2007

J U D G M E N T

Petitioner is a dealer in Petroleum products, and as such tax on the products was already paid at the time of delivery. But he did not produce sufficient materials in proof of such payment and also the books of accounts. In such circumstances, the assessing authority completed the assessment without giving credit to the amounts so paid. The circumstances under which he could not produce the records is well explained in the writ petition supported by an affidavit. The petitioner was seriously ill and the affairs of his business was entrusted with the Manager, who however did not do anything. Because of such lapses, the petitioner being in the hospital the records could not be produced. Based on the assessments made, revenue recovery proceedings were initiated as per Exhibits P1 and P2. Petitioner has produced Exhibit P4 evidencing the payment of tax to the petroleum company.

2. Heard the learned Government pleader.

3. In the facts and special circumstances, to meet the

ends of justice I quash Exhibit P5 assessment order and also the revenue recovery proceedings initiated by Exhibits P1 and P2.

4. The petitioner shall produce all the materials including accounts on which he place reliance before the Assessing Authority, the 4th respondent within three weeks along with a copy of this judgment. Thereupon the assessing authority shall consider the same and pass fresh orders.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp